

Notice of Allowability

Application No.

09/503,215

Examiner

Qamrun Nahar

Applicant(s)

NIEWIADOMSKI ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 3/22/05.
2. ☒ The allowed claim(s) is/are 1,3-26,28-32,36 and 41-44, renumbered 1-35.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

TUAN DAM
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. This action is in response to the amendment filed on 3/22/05.
2. The rejection under 35 U.S.C. 103(a) as being unpatentable over Fortin (U.S. 5,528,753) in view of Kaufer (U.S. 5,812,828) to claims 1-20, 28-33, 36 and 41-47 is withdrawn in view of applicant's amendment and remarks/arguments.
3. The rejection under 35 U.S.C. 103(a) as being unpatentable over Fortin (U.S. 5,528,753) in view of Kaufer (U.S. 5,812,828), and further in view of Peek (U.S. 5,481,706) to claims 21-26 is withdrawn in view of applicant's amendment and remarks/arguments.
4. Claims 1, 15, 16, 21, 23, 28-32, 36, 41 and 42 have been amended.
5. Claims 2, 27, 33-35, 37-40 and 45-47 have been canceled.
6. Claims 1, 3-26, 28-32, 36 and 41-44 are pending.
7. Claims 1, 3-26, 28-32, 36 and 41-44 are allowed, renumbered 1-35.

Drawings

8. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the substitute drawings filed on 5/25/05 are missing the label "Replacement Sheet" in the top margin. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. **Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).** A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

REASONS FOR ALLOWANCE

9. The following is an examiner's statement of reasons for allowance:

The closest cited prior arts, the combination of Fortin (U.S. 5,528,753), Kaufer (U.S. 5,812,828), and Peek (U.S. 5,481,706) teaches a method for creating an instrumented executable file. However, the cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, as “storing the name of the executable file ...; retrieving the address of the function lookup table ...; locating the function lookup table ...; retrieving the address of the original function ...; and invoking the original function using the address of the original function as substantially recited in each of independent claims 1, 28-30, 36 and 41; further fails to teach as “storing the name of the instrumented executable file ...; retrieving the address of the function lookup table ...; locating the function lookup table ...; retrieving the address of the original function ...; and invoking the user-supplied function using the address of the original function as recited in independent claim 15; further fails to teach as “storing the name of the executable file ...; retrieving the address of the function lookup table ...; locating the function lookup table ...; retrieving the address of the imported function ...; and invoking the imported function using the address of the imported function as recited in independent claim 21; further fails to teach as “storing the name of the embedded function ...; retrieving the address of the function lookup table ...; locating the function lookup table ...; retrieving the entry ...; and invoking the embedded function using the entry as recited in independent claim 23; further fails to teach as “store the identity of the first module ...; and a second module of a machine-readable code ... wherein the second module is configured to: retrieve the location of the function lookup table ..., locate the function lookup table ..., retrieve the location of the original function ..., and invoke the original function using the location of the original function as recited in independent

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claim 31; and as pointed out by the applicant's remarks/arguments on pg. 14, par. 3 to pg. 15, par. 2.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

10. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or processing is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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SUPERVISORY PATENT EXAMINER

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Qamrun Nahar
June 27, 2005